

**EXHIBIT F**  
**TO THE SUPPLEMENTAL CERTIFICATION**  
**OF BRIAN E. O'DONNELL**  
**DATED MAY 31, 2007**

Railroad Ins. Underwriters v. Certain Underwriters at Lloyd's, London, et al.

07cv3071(LLS)

# Reinsurance Contract Wording

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## 94 General Clauses for All Treaties

## Service of Suit

**Purpose and Intent.** In the Service of Suit Clause the reinsurer (or underwriter in the London version) agrees to submit to any court of competent jurisdiction in the United States, which provides a legal basis for the enforcement of arbitration awards. The intent of the clause is not to supersede the obligation to arbitrate disputes between contracting parties but to provide the mechanism to enforce awards. The question is sometimes raised, Does the Service of Suit Clause imply that a litigation remedy is available in addition to arbitration? Many state courts have said, No. If, however, the Arbitration Clause contains the phrase, "as a condition precedent to any right of action hereunder...", there should be no doubt whatsoever of the proper order. Nevertheless, the following New York decisions support the proposition that a party's consent to jurisdiction under a Service of Suit Clause is "not fatally inconsistent" with obligations under an Arbitration Clause: 1) *NECA, Ltd. v. National Union Fire Insurance Company of Pittsburgh, PA*, 595 F. Supp. 955 (S.D.N.Y. 1984), and 2) *Ideal Mutual Insurance v. Phoenix Greek Insurance Co.*, N. 83 Civ. 4687 — CSH (S.D.N.Y. July 3, 1984).

## SAMPLE 1. SERVICE OF SUIT (U.S.A.)

*It is agreed that in the event of the failure of the Underwriters hereon to pay any amount claimed to be due hereunder, the Underwriters hereon, at the request of the Insured (or Reinsured), will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this Clause constitutes or should be understood to constitute a waiver of Underwriters' rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any State in the United States. It is further agreed that service of process in such suit may be made upon \_\_\_\_\_, and that in any suit instituted against any one of them upon this contract, Underwriters will abide by the final decision of such court or of any appellate court in the event of an appeal.*

*The above named are authorized and directed to accept service of process on behalf of Underwriters in any such suit and/or upon the request of the Insured (or Reinsured) to give a written undertaking to the Insured (or Reinsured) that they will enter a general appearance upon Underwriters' behalf in the event such a suit shall be instituted.*

*Further, pursuant to any statute of any state, territory, or district of the United States which makes provisions therefor, Underwriters hereon hereby designate the Superintendent, Commissioner, or Director of Insur-*